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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,289	10/13/2000	Robert G. Padingham	584-1033	8885
23644	7590	02/14/2006	EXAMINER	
BARNES & THORNBURG, LLP			NGUYEN, NGA B	
P.O. BOX 2786			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690-2786			3628	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/688,289	PADINGHAM ET AL.	
	<b>Examiner</b> Nga B. Nguyen	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

**WHENEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 November 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 2,3,5,8-10,12,13 and 15-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 2,3,5,8-10,12,13 and 15-28 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on November 16, 2005, which paper has been placed of record in the file.
2. Claims 2, 3, 5, 8-10, 12, 13, and 15-28 are pending in this application.

### *Response to Amendment/Arguments*

3. Applicant's arguments with respect to claims 2, 3, 5, 8-10, 12, 13, and 15-28 have been considered but are not persuasive.

In response to the applicant's arguments that Ojha does not disclose "a store of a plurality of negotiation profiles determining the negotiation characteristic and requirement", examiner respectfully disagrees. Examiner submits that Ojha discloses negotiation profiles which is determine how the agent will act during a given negotiation, see column 15, lines 30-65, the seller authorizes automated response to bids by specifying a number of business rules to govern the responses, for each rules, the seller defines a set of criteria and set of actions to be taken when the set of criteria is satisfied, the number of criteria may be defined and combined in variety of ways using logical operators and groupings. Thus during a given negotiation, the agent determines if the set of criteria satisfies, the agent issues a set of actions. Therefore, during a given negotiation, the set of criteria are grouped and selected by the agent without human intervention.

Moreover, in Ojha, the agent itself is able to take into account "the commerce situation or state to select the optimal negotiation profiles appropriate to that situation or

state". For example see figure 13I, the agent checks if all of the following criteria are true: number of unit is greater or equal to 10, % Bid-List Spread is less than or equal to 20%, buyer reputation is greater than or equal to 0, the following actions is issued by the agent: reduce ask by 6% of list, offering to the buyer a 6% volume discount. Thus, the agent can select the appropriate actions based upon the satisfied criteria.

Furthermore, Ojha allows a buyer to place rules on his computer, see column 13, lines 47-67, a buyer may define mutually exclusive groups of the same or similar products, column 18, lines 24-60, the buyer can enable this feature by specifying which of a plurality or currently ongoing negations should be part of a mutual exclusive group in which all negations are automatically terminated when an agreement in any one of the negotiation is reached. Therefore, Ojha's system enables the buyer to place rules which determine how the agent will act during a given negotiation (or negotiation profiles).

In conclusion, for the reasons set forth above, examiner decides to maintain the previous rejection (also see details below) and make this Office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 2, 3, 5, 8-10, 12, 13, 15-21, and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Ojha et al (hereinafter Ojha), U.S. Patent No. 6,598,026.

Regarding to claims 2-3, Ojha discloses a method of performing automated reverse auction on an electronic network using a software agent for a party conducting electronic trading (figure 1 and column 8, lines 50-67, the web site at which transactions between buyers and sellers are facilitated is located on a server 102), comprising:

a store of a plurality of negotiation profiles each negotiation profile determining different negotiation characteristics and requirements (column 15, lines 30-65, the seller authorizes automated response to bids by specifying a number of business rules to govern the responses, for each rules, the seller defines a set of criteria and set of

actions to be taken when the set of criteria is satisfied, the number of criteria may be defined and combined in variety of ways using logical operators and groupings);

a transaction engine responsive to the commercial situation or state of the party to select an optimal negotiation profile appropriate to that situation or state (column 9, lines 15-18, a series of graphical user interfaces which will be used to illustrate the transaction process);

a negotiation engine driven by the transaction engine that is able to generate bids and counter bids (figures 15-17 and column 18, lines 30, a series of graphical user interfaces allow buyers and sellers submit bids and counteroffers); and

means adapted to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (figures 13A-13K and column 15, line 30-column 16, line 67, the business rules associated with each seller is equivalent to negotiation profiles, the seller authorizes automated responses to bids by specifying a number of business rules to govern the responses).

Claim 5 contains similar limitations found in claims 2-3 above, therefore, are rejected by the same rationale. Moreover, Ojha further discloses in which each buyer is represented by a software agent, each seller is represented by a software agent. (figure 1 and column 8, lines 50-67, buyers represented by computers 122 and file server 116, sellers represented by servers 108; see column 13, lines 47-67, a buyer may define mutually exclusive groups of the same or similar products, column 18, lines 24-60, the buyer can enable this feature by specifying which of a plurality or currently

ongoing negations should be part of a mutual exclusive group in which all negations are automatically terminated when an agreement in any one of the negotiation is reached).

Regarding to claim 8, Ojha further discloses comprising the use of an intermediate software agent between the buyers and the or each seller, for negotiating a contract between the or each seller and the collective buyers (figure 1 and column 8, lines 50-67, the web site at which transactions between buyers and sellers are facilitated is located on a server 102).

Claims 9, 10, 12 contain similar limitations found in claims 2-3 above, therefore, are rejected by the same rationale.

Regarding to claim 13, Ojha further discloses arranged to conduct an automated reverse auction on an electronic network using software agents for buyers and sellers (column 5, lines 40-55).

Regarding to claims 15-21, Ojha further discloses in which each software agent is a component of a distributed architecture (figure 1 and column 8, lines 50-67, servers 102, 108, 116).

Regarding to claims 23-24, Ojha further discloses a communications network comprising a system according to claim 27, in which the network consists of the Internet (figure 1 and column 7, lines 35-45).

Regarding to claims 25-26, Ojha further discloses computer program for creating a system according to claim 27, a computer program for creating a software agent according to Claim 2 (column 22, line 53-column 23, line 12).

Regarding to claims 27-28, Ojha discloses a system and method for performing automated reverse auction comprising the steps of:

a first software agent (figure 1 and column 8, lines 50-67, the web site at which transactions between buyers and sellers are facilitated is located on a server 102), comprising: a store of a plurality of negotiation profiles each negotiation profile determining different negotiation characteristics and requirements (column 15, lines 30-65, the seller authorizes automated response to bids by specifying a number of business rules to govern the responses, for each rules, the seller defines a set of criteria and set of actions to be taken when the set of criteria is satisfied, the number of criteria may be defined and combined in variety of ways using logical operators and groupings); a transaction engine responsive to the commercial situation or state of the party to select an optimal negotiation profile appropriate to that situation or state (column 9, lines 15-18, a series of graphical user interfaces which will be used to illustrate the transaction process); a negotiation engine driven by the transaction engine that is above to generate bids and counter bids (figures 15-17 and column 18, lines 30, a series of graphical user interfaces allow buyers and sellers submit bids and counteroffers); and control means adapted to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile, receiving a request for a service from a buyer (figures 13A-13K and column 15, line 30-column 16, line 67, the business rules associated with each seller is equivalent to negotiation profiles, the seller authorizes automated responses to bids by specifying a number of business rules to govern the responses);

the first software agent requesting negotiation for provision of the service with at least one other agent (figure 16, the user interface allows the buyer to submit bids and counteroffers to the sellers); and

the first software agent responding to a proposal for providing provision of the service from a second agent (figure 17, the user interface allows the seller submit response or counteroffers to the buyer).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ojha et al (hereinafter Ojha), U.S. Patent No. 6,598,026.

Regarding to claim 22, Ojha does not disclose the software is implemented as FIPA open source. However, implementing a software as FIPA open source is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Ojha's to adopt the well known feature above for the purpose of performing automated reverse auction.

### ***Conclusion***

9. Claims 2, 3, 5, 8-10, 12, 13, and 15-28 are rejected.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 273-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
C/o Technology Center 3600  
Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),  
or  
(571) 273-0325 (for informal or draft communication, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

Nga B. Nguyen



January 18, 2006